



## Budget Tidbits... just the facts

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### Budget Brief #1: (1/13/10)

## The Year to Reform Government, Part I Competitive Contracting – Senate Bill 5409

*A bill to ensure state services are provided in the most cost-effective and efficient way possible.*

"The biggest danger of this year's legislative session isn't what lawmakers will consider necessary to close the \$2.6 billion budget hole. It's what they will consider unnecessary. . . . [I]f lawmakers do not look beyond the current budget crisis, they will have invited future ones.

...

The Legislature cannot simply cut-and-tax itself out of this problem. It must reform its way out."

-- "Legislature must look beyond this year's hurdle," News Tribune editorial (1/10/10)

### **I. Competitive Contracting: A Reform Promise Not Kept**

In 2002, the Legislature passed legislation granting state employees the right to collectively bargain over wages and benefits.<sup>1</sup> Contained within the same legislation was an equally important change giving the state the right to solicit competitive bids on services historically performed by state employees. This latter provision would ensure services are provided at the best value to taxpayers.

Collective bargaining for state employees and competitive bidding were passed together, ostensibly as a trade-off: greater efficiencies would yield greater compensation.

That has not happened. Let's compare what has happened since the two provisions took effect:

#### **A. Collective Bargaining (effective July 1, 2005)**

Total biennial expenditures for state employees' wages and salaries<sup>2</sup>:

- 2003-05: \$7.02 billion
- 2007-09: \$8.81 billion
  - Increase over the four years of collective bargaining: 25.4%
  - Increase in the four years prior to collective bargaining: 14.6%

Total biennial expenditures for benefits associated with state employees<sup>3</sup>:

- 2003-05: \$1.61 billion
- 2007-09: \$2.42 billion
  - *Increase over the four years of collective bargaining: 50.5%*
  - Increase in the four years prior to collective bargaining: 8.6%

To be clear, the employee benefits' costs include items not related to collective bargaining, such as pension, social security and workers' compensation cost increases. But even if one were to look solely at health-care related benefits, which are bargained, the expenditures increased by 24.0% in four years.<sup>4</sup>

Clearly, state workers -- represented and non-represented -- have benefitted since collective bargaining took effect. The provisions have been utilized to secure greater compensation and benefits.

### **B. Competitive Contracting of Services Traditionally Performed by State Employees (effective July 1, 2005)**

Compared to collective bargaining, the competitive contracting provisions are the forgotten half-brother.

A 2007 Joint Legislative Audit Review Committee report found only three agencies had utilized the competitive contracting provisions of the act (Yakima Valley Community College, for a child care center; Washington State Patrol, for a telecommunications project; and Central Washington University, for five catering events and a fencing project).<sup>5</sup> Only one of those agencies -- the State Patrol -- is under the governor's direct authority and control.

A 2009 Washington Policy Center study found similar dismal usage of the provisions.<sup>6</sup> The study found no agency was seeking to use the competitive contracting provisions of the law, and of twenty major agencies comprising the vast majority of state spending, only the Health Care Authority reported it had used the competitive contracting provisions in the past.

## **II. Why the Failing?**

There are three primary reasons why competitive contracting has not been utilized:

1. Lack of Executive Leadership -- Agencies follow the governor's lead. Simply put, the governor has not made this a priority. She has not pushed agencies to put services out for competitive bid.
2. Lack of Legislative Willpower -- The Legislature is not absolved of blame. The 2002 act specifically authorized the Legislature to mandate contracting for services. The Legislature has not done so.
3. Flawed Structure -- Under current law, an agency must initiate the bid for competitive contracting. Yet agency heads who work on a day-to-day basis with their employees have little incentive to solicit bids, as doing so threatens to antagonize such employees. The current law puts agency heads in an unenviable and often untenable position.

## **III. The Solution: Washington Competition Council (SB 5409)**

SB 5409 attempts to address the flawed structure in the current law. It would remove agency heads from being responsible for determining when to solicit competitive bids for services performed by state employees. Instead, the legislation establishes a "Washington Competition Council", comprising fifteen members: four agency representatives, four legislators, and seven from the private sector.

The Washington Competition Council would be charged, among other things, with determining the privatization potential of a program or activity and performing a cost-benefit analysis. It would annually report recommendations on potential privatization of state services to the Legislature and governor.

**And here is the key reform:** If the council determines outsourcing an activity may result in reduced costs and the activity being completed in a more cost-efficient and effective manner, the governor must direct the agency to pursue a contract using the competitive contracting process.

This, frankly, takes the politics out of the issue. The question of whether a service can be performed more efficiently and cost-effectively is a factual one, not a political one, and should be answered by an independent entity without a stake in the outcome. That is what SB 5409 would require.

It is important to note the competitive contracting procedures do not presuppose the service would be outsourced. Rather, employees performing the service would be permitted to bid for the work and could very well be selected as the winning bid. But, sadly, as it stands now we have no idea if services are being provided in the most cost-effective and efficient manner possible. This is a disservice to all hard-working state employees as well as to taxpayers.

### **Bottom Line**

Competition keeps prices low and quality high. The competitive contracting provisions in state law have been underutilized for too long. Should the Legislature pass SB 5409 to ensure state services are being provided in the most cost-effective and efficient way possible?

1. SHB 1268 (2002).
2. Legislative Evaluation and Accountability Program, Total Budgeted - Operating Only (excluding Higher Education Non-Appropriated Funds) -- Salaries & Wages
3. Id., Employee Benefits
4. Id., Sub-Object BD (Health, Life, and Disability Insurance)
5. Joint Legislative Audit and Review Committee, "Performance Audit of the Implementation of Competitive Contracting" (Jan. 2007)
6. Washington Policy Center, "How Competitive Contracting can help Balance the Budget without Raising Taxes" (Dec. 2009)